

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MARTHA L. LYONS

Application No. 09/774,727

MAILED

APR 18 2006

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on March 31, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

The examiner's answer mailed on October 6, 2005 is not in compliance with the requirements of 37 CFR § 41.37. The following headings need to be corrected in order to be consistent with the appeal brief filed July 25, 2005:

Summary of the Claimed Subject Matter - replacing the Summary of the Invention section in paragraph (5).

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Evidence Relied Upon - replacing the Prior Art of Record section in paragraph (9).

Grounds of rejections to be Reviewed - replacing the Grouping of Claims and Grounds of Rejection sections in paragraphs (7) and (10).

Acknowledgment of the Related Proceedings and Evidence appendices, if applicable.

A substitute examiner's answer that is in compliance with 37 CFR § 41.37 is required.

In addition, the examiner's answer provides no clear indication that an appeal conference was held because the examiner's answer contains only the typed names of the conferees. No signature or initialing by the conferees is present. The Manual of Patent Examining Procedures (MPEP) § 1208 states:

On the examiner's answer, below the primary examiner's signature, the word "Conferees:" should be included, followed by the typed or printed names of the other two appeal conference participants. These two appeal conference participants must place their initials next to their name. This will make the record clear that an appeal conference has been held.

Upon receipt of the appeal case by the Board of Patent Appeals and Interferences (Board), the Board should review the application prior to assigning an appeal number to determine whether an appeal conference has been held.

Accordingly, it is

ORDERED that this application be returned to the examiner to: 1) file a revised examiner's answer in response to the appeal brief and in accordance with the new rules effective

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September 13, 2004; 2) proper indication that an appeal conference was held; 3) notifying the appellant, in writing, that the appeal conference was held; and 4) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
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